IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

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WRIT PETITION NO : 4905 of 2005

Between:

1 Chillamcherla pandu rangaiah S/o.Narayana
R/o.Balajinagar Kodad Village and Mandal, Nalgonda District.
2 R.Venkateshwar Rao, S/o.Ranga Rao
R/o.Kodad Village and Mandalam Nalgonda District.

..... PETITIONERS

AND

1 The Sub Inspecgtor of Police Kodad Town Police Station, Nalgonda District.
2 The Deputy Commissioner of Prohibition and Excise, Mahaboobnagar Division, Mahaboobnagar District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ order or direction more particularly one in the nature of writ of mandamus, to declare the action of the 1st respondent in seizing the Black Jaggery along with vehicle (Auto) bearing Reg.No.AP24-U-6802 under Cr.No.215/2004 on the file of the respondent as illegal, arbitrary and consequently direct the respondents herein to release the said stocks and also the vehicle bearing Reg.No.AP24-U-6802 in favour of the petitioners.

Counsel for the Petitioner: MR.PALLENAGESWAR RAO

Counsel for the Respondent No.: GP FOR PROHIBITION & EXCISE

The Court made the following:

ORDER:

The writ petition is filed seeking writ of mandamus declaring the action of the first respondent in seizing the black jaggery along with vehicle bearing Registration No.AP 24U 6802 under Cr.No. 215/2004 as illegal and arbitrary and consequently direct the respondents to release the said stocks and also the said vehicle in favour of the petitioners.

It is stated that the 2nd petitioner is the owner of the auto bearing No.AP 24U 6802 and the first petitioner is the owner of 50 K.Gs., of black jaggery and 10 K.Gs., of alum and while transporting the said goods in the auto of the 2nd petitioner, the Sub Inspector of Police, Kodad, checked the seized the goods along with the auto by registering a case in Cr.No.215 of 2004 under Section 34(E) of A.P.Excise Act alleging that the said stocks are being transported for the purpose of manufacturing I.D.liquor.

I am not inclined to express any opinion as to whether the said goods are meant for the manufacture of I.D.liquor as the criminal case is pending before the criminal court and the departmental proceedings relating to the confiscation of the goods and vehicle are pending before the Deputy Commissioner of Prohibition and Excise, Mahaboobnagar. It is stated that the first petitioner filed an application before the 2nd respondent herein on 20.12.2004 for the release of the

said goods of 50 K.Gs., of black jaggery and 10 K.Gs., of alum. Admittedly, the 2nd petitioner, who is the owner of the vehicle, has not filed any application for the release of the vehicle.

Having regard to the facts and circumstances of the case, the 2nd petitioner is directed to make an application before the 2nd respondent for release of the said vehicle within ten days from the date of receipt of copy of the order. If such an application is made, the 2nd respondent is directed to consider and dispose of the same as well as the application filed by the first petitioner on 20.12.2004 for release of the seized goods on furnishing bank guarantee of the value of the seized stocks and auto as determined by him in accordance with law within a period of two weeks thereafter.

The writ petition is, accordingly, disposed of. No order as to costs.

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(V.ESWARAIAH, J.)

6.4.2005

Note: Issue copy within one week.

B.O.

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To

1 The Sub Inspecgtor of Police Kodad Town Police Station, Nalgonda District.
2 The Deputy Commissioner of Prohibition and Excise, Mahaboobnagar Division, Mahaboobnagar District.

3. 2 copies to the Govt. Pleader for Prohibition and Excise, High Court Buildings, Hyderabad.

4. 2 C.D. copies